

## ARTICLE III. KEEPING OF WILD ANIMALS\*

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**\*Editor's note:** Ord. No. 99-404, § 3, adopted April, 28, 1999, states that the provisions of Article III of Chapter 6 of the Code of Ordinances, Houston, Texas, as they read prior to their amendment in Section 1 of this Ordinance are saved from repeal for the limited purposes described by Section 6-57 of the Code of Ordinances, Houston, Texas. Any person who timely applies for and obtains a Special Permit under Section 6-57 shall, subject to full and continuing compliance with all of the provisions thereof, not be in violation of Section 6-52 of the Code of Ordinances, Houston, Texas, as amended in Section 1 of this Ordinance, by virtue of keeping the wild animal(s) authorized in the Special Permit.

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### Sec. 6-51. Wild animal defined.

As used in this article, the term wild animal shall mean any mammal, amphibian, reptile or fowl of a species that is wild by nature and that, because of its size, vicious nature or other characteristics, is dangerous to human beings. Such animals shall include, but not be limited to, lions, tigers, leopards, panthers, bears, wolves, wolf-dog hybrids, cougars, coyotes, coyote-dog hybrids, raccoons, skunks (whether deodorized or not), apes, gorillas, monkeys of a species whose average adult weight is 20 pounds or more, foxes, elephants, rhinoceroses, alligators, crocodiles, caymans, fowl larger than a macaw, all forms of venomous reptiles and any snake that will grow to a length greater than eight feet. The term shall also include any animal listed as an "endangered species" under the federal Endangered Species Act of 1973, as amended, or any fowl protected by the federal Migratory Bird Treaty Act. The term wild animal shall not include gerbils, hamsters, guinea pigs, mice and domesticated rabbits.

(Ord. No. 99-404, § 1, 4-28-99)

### Sec. 6-52. Possession prohibited.

- (a) It shall be unlawful for any person to be in possession of a wild animal within the city.
- (b) It shall be unlawful for the owner or other person in possession or control of any lot, tract or parcel of land within the city or any residence or business premises situated thereon to knowingly suffer or permit any other person to be in possession of a wild animal upon the property, residence or premises.
- (c) As used in this section, the term to be in possession includes any harboring or keeping of a wild animal, whether on a temporary or permanent basis and includes, without limitation, holding or keeping the wild animal for the temporary and/or limited purpose of sale or transfer or offering of sale or transfer to another person.
- (d) It is an affirmative defense to prosecution under this section that the wild animal is being possessed in accordance with all applicable state and federal laws and that:

- (1) The wild animal is being kept for treatment in an animal hospital operated by a veterinarian licensed in Texas;
- (2) The wild animal is being kept at a public zoo that is accredited by a nationally recognized zoological association;
- (3) The wild animal is being kept at a shelter operated by a state or federally recognized humane agency for the purpose of its transfer to a refuge or sanctuary;
- (4) The wild animal is being kept for medical research or teaching purposes at a medical school or licensed hospital or by a university or college offering an accredited degree program;
- (5) The wild animal is in the possession of an airline, motor freight agency, rail freight agency or other carrier, and its possession in the city is incidental to transportation, provided that the wild animal is secured within a cage or other enclosure that is adequate to prevent its escape; or
- (6) The wild animal is being kept or transported temporarily for a production in accordance with a permit or registration under section 6-55 of this Code.

(Ord. No. 99-404, § 1, 4-28-99)

#### **Sec. 6-53. Vaccination.**

No person shall vaccinate, or attempt to vaccinate, any wild animal against rabies except in strict compliance with any regulations promulgated and published by the Texas Department of Health and in accordance with the current protocol published by the American Veterinary Medicine Association for the vaccination of wild animals.

(Ord. No. 99-404, § 1, 4-28-99)

#### **Sec. 6-54. Penalty.**

Violation of any provision of this article is a misdemeanor punishable by a fine of not less than \$500.00, nor more than \$2,000.00. Each wild animal possessed in violation of this article and each day on which it is possessed shall constitute and be punishable as a separate offense.

(Ord. No. 99-404, § 1, 4-28-99)

#### **Sec. 6-55. Temporary permit; registration for productions.**

(a) In this section, the term production means any temporary exhibition or use of a wild animal for purposes of a television, movie or stage production, circus or carnival performance, traveling zoo or animal exposition or other similar use.

(b) A temporary and nonrenewable permit to possess a wild animal in the city for a period of not more than 30 days may be obtained from the director for the purpose of a production. The applicant for such a permit shall demonstrate to the director that:

- (1) The wild animal is required for the production;

- (2) The wild animal will be in the direct charge of its trainer or another person who is familiar with the wild animal and has been trained in its handling and care;
  - (3) The applicant will, consistent with the size and characteristics of the wild animal, have additional handlers available as required to control the wild animal at any time that it is not confined;
  - (4) The owner of each place where the production will take place and the owner of each place where the wild animal will be kept, if different, has consented in writing to its presence;
  - (5) The applicant holds a policy of public liability insurance issued by a carrier authorized to write the policy under Texas law in an amount of not less than \$100,000.00, per occurrence, providing coverage in case of injury or death of any person or damage to any property that results from negligence in the control or handling of the wild animal; and
  - (6) The wild animal will be kept in such manner as to prevent its escape and to prevent injury to persons not associated with the production.
- (c) Applications for permits shall be made in writing to the director upon forms promulgated for that purpose and at least 20 days before the commencement of the production. Each application shall be accompanied by a nonrefundable fee of \$100.00 for five or fewer wild animals, \$200.00 for six to ten wild animals or \$300.00 for 11 or more wild animals.
- (d) A permit issued under this section is valid only for the designated production and the keeping of a wild animal in the city for that limited purpose and shall only extend for the duration of the production.
- (e) The director shall have the right to inspect a wild animal at any time while it is being kept under a permit issued under this section.
- (f) In the event that the director proposes to deny a permit application, the applicant shall be afforded notice of the reasons and an opportunity for a hearing. Following notice, the director may revoke a permit for any violation of this article or applicable state or federal laws. The permit holder shall be afforded an opportunity for a hearing before a permit is revoked. Pending the hearing, the director of health and human services or any deputy or assistant director may suspend the permit if the actions of the permit holder appear to constitute a substantial hazard to public health or safety. Hearings and proceedings shall be conducted in the same manner as provided in chapter 20 of this Code for denials, suspensions and revocations of food dealer's permits.
- (g) The provisions of this section shall not be construed to require a person to obtain a city permit if the person holds a current and valid exhibitors license under the federal Animal Welfare Act (7 U.S.C. § 2131 et seq.) or a current and valid circus, carnival or zoo operators license issued under chapter 824 of the Texas Health and Safety Code and is conducting the production under authority of the state or federal license, provided that the person registers his production with the director and provides the following information:
- (1) A description of each wild animal to be kept;
  - (2) A copy of the state or federal license or other evidence that the person holds a current and valid state or federal license to keep and use the wild animals for the production;
  - (3) Evidence that each person on whose property the production will be presented or the wild animals will be kept has consented to the presence of the wild animals on the person's property; and

- (4) The name, local address and local telephone number of a person or persons who may be contacted for inspections conducted or notices given by the health officer or in case of any escape, attack or other incident involving the wild animal(s).

The health officer may conduct inspections of wild animals kept pursuant to registrations filed under this section and, in cooperation with responsible state and federal regulatory authorities, may take action as appropriate to ensure that wild animals are kept and exhibited in accordance with applicable state and federal requirements.

(Ord. No. 99-404, § 1, 4-28-99)

#### **Sec. 6-56. Impoundment.**

(a) The director shall seize any wild animal possessed in violation of this article and impound the animal at the animal control center or other suitable place. The director, any animal control officer or any police officer of the city may enter any building or property to seize a wild animal therein that is possessed in violation of this article upon consent of an adult occupant of such building or property or one having the right of possession of such building or property, or under a warrant issued by a magistrate.

(b) The director shall impose a fee for the impoundment of a wild animal in the amount of not less than \$50.00 nor more than \$250.00, per animal, and a daily boarding fee of not less than \$5.00 nor more than \$75.00, per animal. The amounts of the fees shall be predicated upon the cost of impoundment, care and feeding of the type of wild animal impounded, and the director may promulgate a schedule of applicable fees for various types of wild animals.

(c) A wild animal that has been impounded for the first time may be redeemed within seven days by its owner if:

- (1) The owner demonstrates that he holds any state or federal license or permit required to keep the animal;
- (2) The animal is not believed to be infected with rabies or any other infectious disease; and
- (3) The owner provides a sworn affidavit setting forth that the wild animal will immediately be removed from the city and will be kept at an identified place where its possession is not unlawful.

The director may require that a wild animal that is released under this subsection be tattooed or otherwise made identifiable in the event that it is again impounded.

(d) Consistent with applicable state and federal laws and regulations, the director shall dispose of any wild animal that is not timely redeemed following its first impoundment and of any wild animal that is again impounded by placing the wild animal in a public zoo or at a reserve, sanctuary or shelter operated by or under the auspices of a recognized humane organization. If such a placement is not practicable and cannot be made within 30 days following the date of impoundment, the wild animal may be destroyed if destruction is not prohibited by state or federal law.

(Ord. No. 99-404, § 1, 4-28-99; Ord. No. 02-575, § 2, 6-26-02)

#### **Sec. 6-57. Special permits.**

(a) The provisions of this section are expressly limited to a wild animal that was then lawfully kept and possessed within the city in accordance with all applicable provisions of this article that were in effect on April 27, 1999, and the term "wild animal" as used in this section shall be so limited in its application.

(b) The owner or person in possession of a wild animal may obtain a special permit to continue to keep the wild animal until it dies or is removed from the city upon written application to the director and demonstration that:

(1) The wild animal was lawfully kept at a specific place within the city on April 27, 1999, in accordance with all provisions of this article as it was then in effect and all applicable state and federal laws and regulations;

(2) The wild animal has been spayed or neutered, if the animal is of a type that may be sterilized;

(3) The wild animal has been tattooed with a control number assigned by the director, if the animal is of a type that may be tattooed; and

(4) The wild animal will be confined in a cage or other enclosure that will reasonably prevent its exposure to any member of the public.

(c) Any such request for a special permit shall be filed with the director within 60 days following April 27, 1999, provided that the director may grant an extension if the director determines that the failure to file within 60 days was not intentional on the part of the applicant.

(d) A special permit issued under this section is exclusively limited to the keeping of the animals specifically identified therein, at the same place where they were kept on April 27, 1999,. The special permit shall not be valid at any other location nor shall it apply to any replacement animals or any progeny of the specified animals.

(e) The director may impose an inspection fee to cover the cost of any inspection reasonably required in connection with the issuance of a special permit.

(f) In the event that an application for a special permit is denied, the director shall advise the applicant of the grounds therefor. The director may revoke a special permit for violation of any requirement of this section. In the event that an application is denied or a permit is proposed to be revoked, the applicant or permit holder shall be afforded the right to a hearing on the matter before a hearing officer designated by the director. Proceedings shall be conducted in substantially the same manner as is provided in chapter 20 of this Code for denials and revocations of food dealer's permits.

(Ord. No. 99-404, § 1, 4-28-99)

**Note:** See the editor's note to Art. III.

### **Sec. 6-58. Regulations promulgated by the director of health and human services.**

Consistent with the provisions of this Code and applicable state and federal laws, the director of health and human services may adopt and implement regulations regarding the administration of this article and the keeping of wild animals hereunder. A copy of the regulations shall be maintained for inspection in the offices of the city secretary and the director of health and human services, and copies may be purchased at the fees provided by law."

(Ord. No. 99-404, § 1, 4-28-99)

**Sec. 6-59. Exceptions to section 6-51.**

The provisions of section 6-51 shall not apply to animals kept for treatment in a facility operated by a veterinarian licensed by the state, animals kept in publicly owned zoos, and animals used for research or teaching purposes by a medical school, licensed hospital or nonprofit university or college providing a degree program.

(Code 1968, § 6-52; Ord. No. 76-2286, § 1, 12-29-76; Ord. No. 79-2, § 4, 1-3-79)

**Sec. 6-60. Use of live vaccine prohibited; keeping of animals vaccinated by same prohibited; exception.**

(a) No person shall vaccinate, or attempt to vaccinate, any wild animal as defined in section 6-52 against rabies by the use of live vaccine.

(b) Except as provided in subsection (c), no person shall possess, keep, permit, or allow any wild animal as defined in section 6-52 within the city if such animal has been vaccinated against rabies with the use of live vaccine.

(c) This section shall not apply to the use of live rabies vaccine for research purposes when such research is conducted by a medical school, licensed hospital or nonprofit university providing a degree program.

(Code 1968, § 6-53; Ord. No. 79-1, § 1, 1-3-79)

**Sec. 6-61. Transport of wild animals used for film making, productions, etc.**

(a) It is an affirmative defense to prosecution under either section 6-51 or section 6-53 of this Code that the actor was transporting the wild animal by vehicle upon the public streets and that the wild animal was secured within the vehicle being utilized for its transport in such a manner that it could not escape from the vehicle; it could not come into contact with any person who was not also within or upon the vehicle; and it could not come into contact with the driver of the vehicle while the vehicle was in motion.

(b) It is also an affirmative defense to prosecution under either section 6-51 or section 6-53 of this Code that, at the time of the alleged offense:

(1) The actor was actually utilizing the wild animal at a production site for the purposes of the production of a motion picture being made for viewing by the general public, or a film or tape designed for use in a television show or television advertisement and in which the use of the wild animal was specified by the script; and

(2) The actor had the written permission of the person having the right of possession and control of the production site for the use of the wild animal thereupon in the production; and

(3) The wild animal was in the immediate and direct charge of a person who had been trained in its care and handling and who was responsible to ensure that the animal could not come in contact with persons who had not affirmatively consented to be involved in the production, and who was responsible for the prevention of its

escape or of any injuries or damage that it might cause to persons or property at all times during its utilization at the production site, and who had under his control and supervision, at all times such wild animal was present, no fewer than four additional persons over 18 years of age who could assist if needed in controlling such animal; and

(4) The actor had given the director five days' prior written notice of his intent to utilize the wild animal, specifying the type of wild animal and production activity, the location of the production site, the address of the place where the wild animal would be kept when not in use at the production site, dates and times that the wild animal would be present at the site, and the name and a local address and telephone number at which the handler of the wild animal could be contacted during the production activity. The notice shall be either mailed, certified mail, return receipt requested, or hand-delivered to the director, c/o Chief, Animal Control Center, 2700 Evela, Houston, Texas 77026.

(c) The director or his representative will have the right to inspect, at any time, any production site where a wild animal is present.

(d) The provisions of section 6-51 and section 6-53 of this Code shall be applicable to the wild animal when it is kept within the city while not being used in the production.

(Ord. No. 86-1767, § 1, 9-30-86)

Secs. 6-62--6-75. Reserved.